

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

MAR 2 2006

OFFICE OF
MANAGING DIRECTOR

Jeffrey L. Timmons
Jeffrey L. Timmons, P.C.
Counsel for KM Television
of Jackson, L.L.C.
3235 Satellite Boulevard
Building 400, Ste. 300
Duluth, Georgia 30096

Re: KM Television of Jackson, L.L.C.
Request for Waiver of FY 2005
Regulatory Fees
Fee Control No. RROG-06-00003619

Dear Mr. Timmons:

This responds to your September 6, 2005 letter on behalf of KM Television of Jackson, L.L.C. (KM Jackson), licensee of KBEO-TV (KBEO), Jackson, Wyoming, requesting waiver of the regulatory fee for fiscal year (FY) 2005 on grounds of financial hardship (Letter). Our records show that the FY 2005 regulatory fee in the amount of \$4,625 has been paid for KBEO. As explained below, we grant your request in full.

In support of your request, you attach a summary of revenues and expenses, and a summary of assets and liabilities, for KM Jackson for calendar year 2004. You state that KBEO is a new station that began broadcasting only in April 2001, and has not been able to realistically market or promote the station or sell advertising.¹ You also state that KM Jackson required a loan of \$73,052 from its owner to cover KBEO's 2004 operating expenses, and has made no payments to the owner or to any other principal since the station was constructed and began operating.²

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995). In reviewing a showing of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, and considers whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Thus, even if a station loses money, any funds paid to principals, deductions for depreciation or similar items are considered funds available to pay the fees.

¹ Letter at 2.

² Id.

Our review of the financial documentation you submitted indicates that KM Jackson had expenses of over \$69,000 in 2004 without corresponding income from revenues. Thus, the licensee experienced a financial deficit in 2004 without regard to any deduction for depreciation or payments to any principal or officer of the station. Therefore, your request for a waiver of the regulatory fee for FY 2005 is granted. This waiver, however, is limited to the FY 2005 regulatory fee. If KM Jackson continues to experience financial hardship, you may request waiver of the fees for succeeding years only if supported by appropriate documentation.

A check made payable to the maker of the original check and drawn in the amount of \$4,625 will be sent to you at the earliest practicable time. If you have any questions concerning this letter, please contact the Revenue and Receivable Operations Group at (202) 418-1995.

Sincerely,

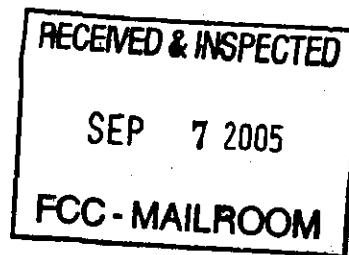
A handwritten signature in black ink, appearing to read 'Mark A. Reger', is positioned above the printed name.

Mark A. Reger
Chief Financial Officer

WTS# 3619

ORIGINAL

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September 6, 2005

VIA FEDERAL EXPRESS

Office of the Managing Director
Federal Communications Commission
445 12th Street, S.W., Room 1-A625
Washington, D.C. 20554
Attn: Regulatory Fee Waiver/Reduction Request

RE: KM Television of Jackson, L.L.C.
Television Station KBEO(TV), Jackson, Wyoming

Dear FCC:

KM Television of Jackson, L.L.C. ("KM"), licensee of full power commercial television station KBEO(TV), Jackson, Wyoming (Facility ID No. 35103, "KBEO"), by its counsel, and pursuant to the Commission's Regulatory Fees Fact Sheet, Waivers, Reductions and Deferrals of Regulatory Fees (dated July 2005, the "Waiver Fact Sheet"), respectfully requests the waiver of the annual regulatory fee to be paid by KM for KBEO for fiscal year 2005. The Waiver Fact Sheet states that the Commission will consider the waiver of annual regulatory fees in extraordinary and compelling circumstances, upon a showing that such a waiver would serve the public interest. As required, KM is timely paying (i.e., by September 7, 2005) the regulatory fee of \$4,625, and requests a refund of that regulatory fee if this waiver request is granted.¹

KM completed construction and first put KBEO on the air as a new full power commercial television station in April 2001. Jackson is located in Teton County, Wyoming, and Jackson and Teton County are currently assigned to the Idaho Falls - Pocatello, Idaho Designated Market Area ("DMA"), which ranks as DMA No. 165, see 2003 *Television Yearbook* at 91 ("2003 Yearbook"), so the 2005 regulatory fee for KBEO is \$4,625. See Regulatory Fees Fact Sheet, What You Owe - Media Services Licensees for FY 2005 at 3 (\$4,625 regulatory fee for commercial VHF stations in "Remaining Markets", i.e., DMAs over 100)(the "Media Services Fact Sheet"). KBEO is predicted to serve a population of only about 11,371 persons (1990 U.S. Census) and less than 4,000

¹ KM notes that it filed a similar request for waiver or reduction of the annual regulatory fees due for KBEO for Fiscal Year 2004 (the "2004 Waiver Request"), which was granted on June 6, 2005.

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households within its predicted Grade B contour,² which is only a small fraction (less than 4%) as compared to the 108,000 households in KBEO's Idaho Falls - Pocatello DMA. See 2003 Yearbook at 91. Jackson itself has a current (2000 U.S. Census) population of only 8,647 persons.

Since KBEO does not serve the primary communities in the DMA, of Pocatello and Idaho Falls, even assessing KBEO the \$4,625 regulatory fee due from a DMA No. 166 station would ignore the facts and market realities faced by KM and KBEO, and would harm the service that may be offered by KBEO, and would also impose a financial hardship on KM; therefore, the regulatory fee should be waived completely. Attached hereto as Exhibit A are an unaudited Statement of Revenues & Expenses (or "profit and loss" statement, the "P&L") for KM for calendar year 2004 (which is also KM's fiscal year, and is the most recent full year for which financial statements are available for KM) and a Statement of Assets, Liabilities & Equity (or "Balance Sheet") as of December 31, 2004 for KM, certified as accurate by an officer of KM. The P&L reflects that KM suffered a loss of \$69,396 on KBEO in 2004, with almost no revenues generated by the station.

The poor financial condition of KM and KBEO reflects that the station is a new station that just commenced broadcasting in April 2001; was able to secure and commence broadcasting the America One Network programming (which as a fringe network has yet to generate any advertising revenue for the station); and that due to the relatively weak signal and programming, the station has not been able to realistically market or promote the station or sell advertising. KM was able to continue to operate KBEO in 2004 only by KM's principal and 100% owner, Mrs. Myoung Hwa Bae, loaning \$73,052 to KM during 2004 to cover its operating expenses.³ No payments have been made by KM or KBEO to Mrs. Bae or to any other principal or owner of KM or KBEO in 2004, or since the station was constructed and has been operating. In short, KM's current financial hardship in operating KBEO would make it unduly burdensome for KM to pay the \$4,625 regulatory fee due from a DMA 166 station, and therefore KM respectfully requests that the regulatory fee for 2005 for KBEO should be waived; however, KM is timely paying the regulatory fee of \$4,625 by the September 7, 2005 payment deadline, and requests a refund of that fee payment if this waiver request is granted.

² See, e.g., File No. BMPCT-19991004ABI, Statement Supporting Amendment of Application at 3 (as amended June 8, 2000).

³ The attached Balance Sheet as of December 31, 2004 reflects the total amount of the "Loan from Mrs. Bae" as \$495,287.05, which is \$73,052.05 more than the \$422,235 reflected as "Loan from Mrs. Bae" on the balance sheet as of December 31, 2003, a copy of which was attached to the 2004 Waiver Request.

Please date-stamp the enclosed additional "FILE" copy of this filing and return it the undersigned in the enclosed self-addressed stamped envelope. Any questions regarding this filing and the requests made herein may be directed to the undersigned counsel for KM.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey L. Timmons", written over a horizontal line.

Jeffrey L. Timmons

Attachment

cc: Mrs. Myoung Hwa Bae